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UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

DEC 16 2002

GENERAL COUNSEL  
OF COPYRIGHT

IOMEDIA PARTNERS, INC., et al.,

Appellants,

v.

UNITED STATES COPYRIGHT OFFICE,  
LIBRARY OF CONGRESS,

Appellee.

No. 02-1244 (Consolidated with Nos.  
02-1245, 02-1246, 02-1247, 02-1248,  
and 02-1249)

**CERTIFICATE OF COUNSEL**

Pursuant to the Court's Order of August 9, 2002 and D.C. Circuit Rule 28(a)(1), the undersigned counsel for the Appellants, IOMedia Partners, Inc., Beethoven.com LLC, Chatmaster Streaming Network, ClassicalMusicDetroit.com, Digitally Imported Radio, Flaresound, iM Networks, Inetprogramming Incorporated, Internet Radio Hawaii, Internet Radio, Inc., Live365.com, Inc., Pacific Internet Broadcast Services, Radio Paradise, SomaFM, LLC, Ultimate-80s, Virgin Audio Holdings, LLC, Wherever Radio, Wolf FM, 3WK, Inc., ("Appellants") hereby certify as follows:

**A. Parties and Amici**

To the best of the undersigned counsel's knowledge, the parties and amici before the Copyright Arbitration Royalty Panel and the parties in this Court are as follows:

Beethoven.com  
BET.com  
Chatmaster Streaming Network  
ClassicalMusicDetroit.com  
Comedy Central  
Digitally Imported Radio  
Echo Networks, Inc.  
Flaresound

iM Networks, Inetprogramming Incorporated  
Internet Radio Hawaii  
Internet Radio, Inc.  
IOMedia Partners, Inc.  
Listen.com  
Live365.com, Inc.  
MTVi Group, LLC  
Myplay, Inc.  
NetRadio Corporation  
Pacific Internet Broadcast Services  
Radio Active Media Partners, Inc.  
Radio Paradise  
RadioWave.com, Inc.  
SomaFM, LLC  
Spinner Networks Inc.  
Ultimate-80s  
Virgin Audio Holdings, LLC  
Wherever Radio  
Wolf FM  
3WK, Inc.  
XACT Radio Network LLC  
Susquehanna Radio Corporation  
Infinity Broadcasting Corporation  
National Religious Broadcasters Music License  
DMX/AEI Music Inc.  
American Federation of Television and Radio Artists  
American Federation of Musicians of the United States and Canada  
Association for Independent Music  
Recording Industry Association of America, Inc.  
Librarian of Congress (Copyright Office)

**B. Ruling Under Review**

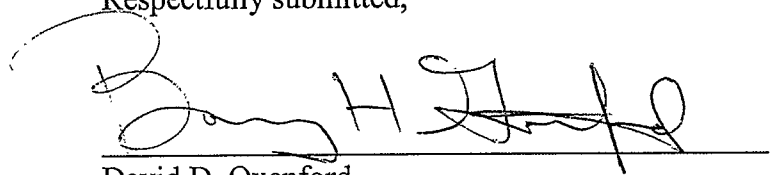
The Appellants seek review of an order of the Librarian of Congress (Copyright Office) (the "Librarian") determining the rates and terms for two compulsory licenses that permit certain digital performances of sound recordings and the making of ephemeral recordings. See Determination of Reasonable Rates and Terms for the Digital Performance of Sound Recordings and Ephemeral Recordings; Final Rule, 67 Fed. Reg. 45240 (July 8, 2002) (to be codified at 37 C.F.R. pt. 261) ("Final Order"). A true and accurate copy of the Final Order as published in the Federal Register is attached to the Notice of Appeal filed by Appellants on August 7, 2002.

**C. Related Cases**

Neither this Court nor any other court has previously reviewed the Final Order. There are several related cases, including *America Online, Inc. v. Librarian of Congress* (No. 02-1245), *Recording Industry Association of America, Inc. v. Librarian of Congress* (No. 02-1246), *American Federation of Musicians of the United States v. Librarian of Congress* (No. 02-1247), *American Federation of Television and Radio Artists v. Librarian of Congress* (No. 02-1248), and *Salem Communications Corporation v. Librarian of Congress* (No. 02-1249). The Court consolidated these cases by an Order dated August 9, 2002. In addition, the petitioners in *Intercollegiate Broadcasting System and Harvard Radio Broadcasting Co., Inc. v. Librarian of Congress*, who appealed the Final Order in No. 02-1220, filed a motion for leave to intervene in the consolidated case.

DATED: September 9, 2002

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'David D. Oxenford', is written over a horizontal line.

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I hereby certify that on this 9th day of September, 2002, the foregoing Certificate of

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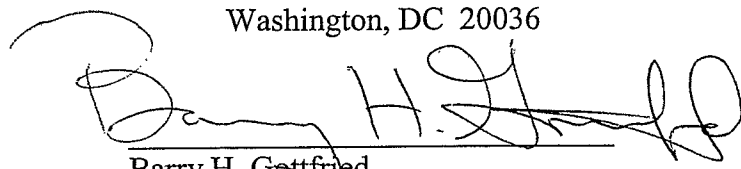
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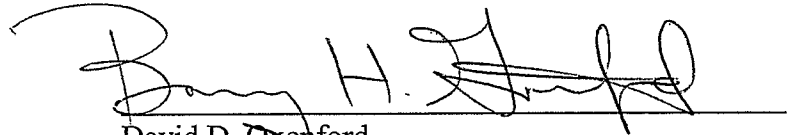
**STATEMENT REGARDING USE OF A DEFERRED APPENDIX**

Pursuant to the Court's Order of August 9, 2002, the Appellants, IOMedia Partners, Inc., Beethoven.com LLC, Chatmaster Streaming Network, ClassicalMusicDetroit.com, Digitally Imported Radio, Flaresound, iM Networks, Inetprogramming Incorporated, Internet Radio Hawaii, Internet Radio, Inc., Live365.com, Inc., Pacific Internet Broadcast Services, Radio Paradise, SomaFM, LLC, Ultimate-80s, Virgin Audio Holdings, LLC, Wherever Radio, Wolf FM, 3WK, Inc., hereby state that they intend to utilize a deferred appendix in this proceeding and

that the Department of Justice has agreed to utilize a deferred appendix, as provided for under the Federal Rules of Appellate Procedure 30(c).

DATED: September 9, 2002

Respectfully submitted,

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Document #: 1270586 v.1

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I hereby certify that on this 9th day of September, 2002, the foregoing Statement Regarding Use of a Deferred Appendix was served by U.S. mail, postage prepaid, on the following:

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